

## GENERAL CONDITIONS OF CONTRACT

### **A. General Conditions of contract**

#### **1.0 DEFINITIONS:**

In the Contract (as hereinafter defined) the following words and expressions shall have meanings hereby assigned to them, except where the context otherwise required:

#### **1.1 Project:**

Project shall mean and include the execution of the Work to be performed under this Contract for **Tilak Ayurved Mahavidyalaya** for the **Repairing, Changes and Painting of Main Building (TAM)** Pune.

#### **1.2 Contract:**

The term 'Contract' means the written agreement between the Owner and the Contractor, the Contract documents, all addenda issued by the Owner/Trustees and all letters exchanged between the Owner/Trustees and the Contractor before the Contract, specifications, priced schedule of quantities and drawings, modifications and amendments thereto, which the Structural Consultant/Architect may furnish during the progress of the Work and includes all the acts and deeds in confirmation to Indian Contract Act, 1872.

#### **1.3 Type of Contract:**

The Contract shall be an **Item-Rate Contract**. The Contractor shall be paid for the actual quantity and quality of work done, as measured at site at rates approved by the Owner/ Structural Consultant/Architect.

#### **1.4 Drawings:**

'Drawings' mean all drawing, details and sketches along with the technical information therein, furnished by the Architect through the Structural Consultant/Architect to the Contractor under the Contract and any modifications of such drawings or such other drawings as may be from time to time be furnished or approved in writing by Structural Consultant/Architect.

#### **1.5 Contract Price/Sum:**

- a) Shall mean the sums referred to in the Contract Documents for the Contractor performance of the Work.
- b) The rates are inclusive of all Taxes like, WCT, Labour Cess, and all other statutory duties/ levies/ charges shall be deemed to be included in the rates by the Contractors as per current applicable rules. However CGST/SGST shall be payable extra as applicable.
- c) The Contractor shall be responsible for payment of ESI, Sales Tax, GST, Excise duties, Cess, Octroi, VAT, Labour Cess, Work Contract Tax, Trade Tax, Royalty and Provident Fund, under The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and other labor laws and rules made there under etc. and as amended from time to time, on materials and work, applicable as per Government rules.  
The Contractor hereby acknowledges the Owner that the Contractor shall submit the proof thereof for the payments made towards the statutory compliances along with each RA Bill.
- d) All applicable Taxes will be deducted by the Owner from all the payments made to the Contractor.
- e) The Contract is neither a fixed lump sum Contract nor a piece work Contract, but is an item rate Contract to carry out the Work according to the actual measured quantities at the rates contained in the schedule of rates and probable quantities as provided in the Priced Bill of Quantities.

**f) Prices shall be firm until the end of the Project. No escalation in prices shall be allowed for any reason whatsoever during the stipulated completion period of the project or further agreed extension, thereof.**

#### **1.6 Site**

'The Site' shall mean the site of Contract work i.e. "Rectification/Repairing and Renovation of Girls Hostel Building , Pune" at Rasta Peth, Pune.

Including any building and erections thereon and any other land allotted by the Owner for Contractor's use.

#### **1.7 Work / Works**

Work / Works means all the work and design (if any) to be performed by the Contractor and or Sub Contractor including temporary work and any variation. It includes both labors and materials.

#### **1.8 Site Supervision**

The work shall be carried out under the direction and supervision of the Owner/Trustees and/or its representative at site. On acceptance of Tender, the Contractor shall intimate the name of its accredited representative who would be supervising the work on day to day basis and would be responsible for taking instructions from Owner/Trustees or its nominated representative for carrying out the work in the project.

#### **1.9 Owner:**

The Owner shall mean and include Hon. President, Tilak Ayurved Mahavidyalaya,Pune,Maharashtra, India.

#### **1.10 Owner Representative:**

Owner's Representative shall mean:

(1) Structural Consultant/Architect and Principal Tilak Ayurved - The authorized person/company to deal with all day-to-day site execution work, drawing, drawing discrepancies, quality, payments, site instructions related to work in compliance with the Contract condition and all type of site administration.

(2) Contract Issuing Authority: The authorized person/ company duly appointed by the Owner to deal with all Contractual matters. The final authority to issue any variations, corrections, amendments, addendum to the existing Contract.

(3) Final Authority (Owner): For terminology "Owner" whose roles and responsibilities are not covered under above two. All such communication shall be sent to the Final Authority if the same not being addressed by the above two representatives. The decision of final authority shall be binding on Contractor.

(4) Quantity Surveyor: shall mean the person / company authorized by the Owner to check and verify the measurement, claims, bills reconciliation statements , stock reports , rate analysis of the work executed by the Contractor at site.

#### **1.11 Consultant:**

Consultant shall mean any person or persons duly appointed by the Owner to act as "Consultant" to render consultancy services in any area/ field of activities connected with and arising out of the Contract under a separate agreement setting out the consultant(s) responsibilities and terms & conditions.

**1.12 Contractor:**

The Contractor shall mean and include the person or persons, firm, company or consortium whose tender has been awarded by the Owner and includes the Contractor's its legal representatives, successors, nominees and assignees etc.

**1.13 Contractor's Representative:**

The Contractor's Representative shall mean the person or party duly appointed by the Contractor to act for and on its behalf on a day-to-day basis during the construction of the Work and the Project. Any action to be taken by the Contractor may be taken on the Contractor behalf by the Contractor's Representative. The Contractor shall intimate the Owner well in advance, who will act as its single representative possessing irrevocable Power of Attorney to sign and accept all Contractual, technical and commercial documents.

**1.14 Sub Contractor:**

The term "Sub Contractor" as employed herein, includes those having the direct Contract with the Contractor. It includes one who furnishes material worked to a special design according to plans or specifications to this Contract, but does not include one who merely furnishes material not so worked. Anyone doing work on a piece rate basis shall be deemed as Sub Contractor.

**1.15 Approved/ Approval:**

Approved/ Approval shall mean and include approved/ approval accorded by the Owner or Structural Consultant/Architect in writing with or without the concurrence of the Architect or of the Owner.

**1.16 Approved Equal:**

Approved Equal shall mean an alternative product or service approved by the Owner as being equivalent to that specified in the Contract Documents.

**1.17 Market Rate:**

The term 'Market rate' means the rate as decided by the Owner on the basis of materials cost inclusive of all taxes and cost of labour at the site, where the work is to be executed plus the overheads, supervision and profit of the Contractor.

**1.18 Provisional sum:**

Provisional sum means a sum (if any) which is specified in the Contract as a Provisional sum for execution of any part of the Work or for the supply of plant, materials or services.

**1.19 Notice in writing / Written notice:**

Means a notice in hand written, typed or printed form sent by facsimile, electronic mail (e-mail), courier or - registered post (unless delivered personally or proved to have been received) to the last known private or business or registered office address of the addressee and shall be deemed to have been received when in the ordinary course of post it would have been delivered. All references, communications, correspondence made by the "Owner, the Architect, and the Structural Consultant/Architect or the Contractor concerning the work, shall be in writing and no reference, communication, or complaint which is not in writing shall be recognized. All such communications shall be directed in the first instance through the Structural Consultant/Architect.

**1.20 Act of Insolvency:**

The term 'Act of Insolvency' means any act of insolvency as defined by the Presidency Towns Insolvency Act or the Provincial Act or any amending statute.

**1.21 Virtual Completion:**

The date of Virtual Completion of a work or a specified area of a project is the date when construction is sufficiently completed in accordance with the Contract Documents as modified by any change or variation orders agreed to by the parties, so that the Owner can occupy the project for the use it was intended. Virtual completion certificate will be issued by the Final Authority at his discretion.

**1.22 Final Completion:**

Final Completion will be deemed to have been achieved when at the end of the Defects Liability Period a Final Completion Certificate has been or will be issued by the Owner (Final Authority), when all the requirements of the Contract have been met and complied with and when all the defective items of work (if any snag list generated at site and officially handed over to the Contractor) and defects have been replaced and/or rectified and made good as directed by and to the satisfaction of the Structural Consultant/Architect and Owner.

**1.23 Defects Liability Period:**

Defects Liability Period shall be the **12-months period** after Virtual Completion and any period extended as a result of rectification of the Work/change orders, between the Virtual Completion and the Final Completion of the Work, and during which period the Contractor shall be bound to replace and/or rectify and make good all defective materials, equipment and/or workmanship which arise in the Work or come to notice subsequent to the Virtual Completion of the Work and prior to the completion of the work.

**1.24 Force Majeure:**

Force Majeure are risks due to riots (otherwise than among Contractor's employees) and civil commotion (in so far as both these are uninsurable), war (whether declared or not), invasion, act of foreign enemies, hostilities, civil war, rebellion, insurrection, military or usurped power, an act of Government, an act of God, such as lightning, unprecedented floods, tornado, Earthquake and damage from aircraft.

**1.25 Measurement Books:**

The "measurement books" shall be defined as the books maintained during the currency of the project to record all measurements qualifying for payment. The Contractor shall maintain measurement books of all work done by them (in both electronic and hard copy). The Contractor shall get the measurement books verified by the Owner / quantity & quality surveyors decided by the Owner.

**1.26 Owner's Use of Contractor's Documents:**

The Contractor shall be deemed (by signing the Contract) to give to the Owner complete title and all applicable Intellectual Property Rights of all the Contractor's Documents and other design documents, including making derivatives and using modifications of them.

**1.27 Contractor's Use of Owner's Documents:**

As between the Parties, the Owner shall retain the copyright and other intellectual property rights in the Specifications, the Drawings and other documents made by or on behalf of the Owner. The Contractor may, at its own cost, copy, use, and obtain communication of these documents only for the purposes of this Contract. They shall not, without the Owner's consent, be copied, used or communicated to a third party by the Contractor or used by Contractor for any other project, except as necessary for the purposes of this Contract.

**1.28 Day Work:**

Items or labour and/or materials which, in the opinion of the Owner, not capable of being evaluated by the accepted methods of measurement or assessment.

**1.29 Taxes:**

“Tax” or “Taxation” means any central, state, local or foreign income tax, property tax, withholding tax, wealth tax, capital gains tax, excise duty, customs duty, sales tax, service tax, minimum alternative tax, value added tax, fringe benefits tax, transfer tax, dividend tax, stamp duty, employment tax and all other kinds of taxes, charges, levies, cesses, surcharges and duties that may be imposed by any Governmental Authorities, including any deficiencies, additions, interest and penalties in connection therewith.

**1.30 Applicable Laws:**

“Applicable Law” shall mean all applicable laws, bye-laws, rules, regulations, orders, ordinances, notifications, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any Governmental Authority or Person acting under the authority of any Governmental Authority and/ or of any statutory authority in India whether in effect on the Tender date or thereafter.

**B) Contract Documents:**

**2.1** The following documents shall constitute the Contract Document:

- a) Copy of Letter of Intent,
- b) Copy of Work Orders,
- c) Agreement of Contract with its documents mentioned therein.
- d) Tender document submitted by the Contractor,
- e) Technical Specifications,
- f) Priced Schedule of Quantities / Contract Bills,
- g) Addendum/corrigendum issued, if any, including the correspondence, thereof,
- h) Post Tender Correspondence and Pre- bid meets,
- i) Tender Drawings.

a) The Contract Document is complementary. What is called for in any one shall be as binding as if called for by all.

b) The Contract Document shall remain in the custody of the Owner so as to be available at all reasonable times for the inspection for the Owner or of the Contractor. Immediately after the execution of the Contract one copy of the Contract Document and two copies of the Contract Drawings shall without charge be supplied by the Owner to the Contractor.

c) As soon as is possible after the execution of this Contract, two copies of the Specifications, Descriptive Schedule or other like documents necessary for use in carrying the work shall without charge be supplied by the Owner/ Structural Consultant/Architect to the Contractor.

d) Provided that nothing contained in the said Specifications, Descriptive Schedules or other Documents shall impose any obligation beyond those imposed by the Contract Document namely by the Contract Drawings, the Contract Bills, the Agreement of Contract and these conditions.

e) After the award of the Contract, the Contractor shall without charge be supplied with all such further drawings and details as may be prepared by the Architect, Consultants, from time to time as the work

proceed, as are reasonably necessary either to explain or amplify the Contract Drawings or to enable the Contractor to carry out and complete the work, in accordance with these Conditions, provided that all such drawings shall be a reasonable development of the work described in the Contract Document.

f) None of the documents hereinbefore mentioned shall be used by the Contractor for any purpose other than this Contract.

g) Upon final payment, the Contractor shall if so requested by the Owner forthwith returns to Owner all Drawings, Details, Specifications, Descriptive Schedule and other Documents of like nature which bears its name or that of the Consultants.

## **2.2 Schedule of Quantities:**

The Schedule of Quantities given in the Bill of quantities is Provisional and is meant to indicate the intent of the work and to provide a uniform basis for tendering. The Owner reserves the right to increase or decrease any of the quantities up to any extent OR to totally omit any item of work and the Contractor shall not claim any extras or damages on this ground.

## **2.3 Contract Drawings:**

a) In general the Drawings shall indicate dimensions, positions and type of Construction, the specifications shall indicate the qualities and the methods, and the Bills of quantities shall indicate the quantum and the rate for each item of work. Any work indicated on the Drawings and not mentioned in the Specification or vice-versa shall be furnished as though fully set forth in both. Work not specifically detailed, called for, marked or specified shall be the same as similar parts that are detailed, marked or specified.

b) The Contractor's work shall not deviate from the Drawings and the Specifications. The Architect's interpretation of these document shall be final and without appeal.

c) Errors or inconsistencies discovered in the Drawings and Specification shall be promptly brought to the attention of the Architect, through Structural Consultant/Architect, for interpretation or correction.

d) Local conditions which may affect the work shall likewise be brought to the Owner attention. If at any time, it is discovered that work is being done which is not in accordance with the Contract Drawings and immediately corrections of defective work shall not be a basis for any claim for extension of time. The Contractor shall not carry on work except with the knowledge of the Owner.

e) No work shall be carried out by the Contractor without the receipt of Good For Construction (GFC) Drawings.

f) All drawings, Bills of Quantities and Specifications and copies thereof furnished by the Architect are its properties. The same shall not be used on any other work and shall be returned to the Owner at its request on completion or earlier termination of the Contract.

## **C) Scope, Extend and Intent of Contract:**

**3.1 Scope:** The general character and the scope of the work is described in memorandum and the work order illustrated and defined by the Specifications and the Bills of Quantities herewith attached and by the signed Drawings. If the Contractor shall find any discrepancy in or divergence between the Contract Drawings and/or the Bill of quantities then in that case the Contractor shall immediately give to the Structural Consultant/Architect a written notice specifying the discrepancy or divergence and Owner

shall issue instruction thereto. However, for any Contractual corrections, amendments, and addendums the same shall be issued to the Contractor by Owner through Contract issuing authority.

**3.2 Extent:** The Contractor shall carry out and complete the work in every respect in accordance with this Contract and with the direction of and to the reasonable satisfaction of the Structural Consultant/Architect. The Owner may in its absolute discretion and from time to time issue further drawings, details and / or written directions and written explanation all of which are collectively referred to as Structural Consultant/Architect's/ Architect's Instructions. All such Drawings and Instructions shall be consistent with Contract Document, true developments thereof reasonably inferable there from.

**3.3 Intent:** The intention of the Document is to include all labors and materials, equipment and transportation necessary for the proper execution of the work. Materials of work described in work which so applied have a well known technical or trade meaning shall be held to refer to such recognized standard.

**3.4 Discrepancies & Adjustment of Errors:**

The several documents forming the Contract are to be taken as mutually explanatory of one another. In case of discrepancy Owner shall be sole deciding authority with regard to intention and interpretation of the document and its decision in this respect shall be final and binding.

Any error in description, quantity or rate in Bill Of Quantities or any omission there from shall not vitiate the Contract or release the Contractor from the execution of the whole or any part of the work comprised therein according to the drawings and specifications or from any of its obligations under the Contract. Any error in quantity rate or amount in Bill of Quantity shall be adjusted in accordance with the following rules:-

- a) In the event of a discrepancy between description in words and figures quoted by a Contractor the description in words shall prevail.
- b) In the event of an error occurring in the amount column of Bill of Quantities, as a result of wrong extension of unit rate and quantity, the unit rate quoted by Contractor shall be regarded as firm and the extension shall be amended on the basis of the rate.
- c) All errors in totaling in the amount column and in carrying forward totals shall be corrected.

**D) Statutory, Obligations, Notices, Fees And Charges:**

**4.1** The governing law of the Contract shall be Indian law and subject to its jurisdiction at Pune.

**4.2** The Contractor shall comply with and give all notices given by any Government authority, and instrument, rule or order made under any Act of Parliament or any regulation or Bye-law of any local authority relating to the work or with whose system the same is or will be connected / concerned.

**4.3** The Contractor before making any variation from the Contract Drawings or Bill of Quantities necessitated by such compliance shall give to the The Principal,Trustee,Structural Consultant/Architect a written notice specifying and giving reasons for such variations and, the Structural Consultant/Architect may issue instructions in regard thereto. If within 10 days of having given the said written notice, the Contractor does not receive any instructions in regard to the matters therein specified, then the Contractor shall proceed with the work confirming to Act of Parliament, instrument, rule, order, regulations or bye-law in question and any variation thereby necessitated shall be deemed to be the variation required by the Structural Consultant/Architect.

**4.4** The Contractor shall pay and indemnify the Owner against liability in respect of any fees or charges (including any rates and taxes) legally demandable under any Act of Parliament or Bye-law or any local authority in respect of the Work or non-compliance of any of statutory Provision / permission etc.

**E) Royalties And Patent Rights:**

**5.1** All royalties or other sums payable in respect of the supply and use in carrying out the work as desired by or referred to in the Bill of Quantities of any patented articles, process or inventions shall be deemed to have been included in the Contract Sum.

**G) Licenses And Permits:**

**6.1** Licenses and Permits for all materials under Government control shall be obtained by the Contractor through the collaboration and help of the Owner, the Contractor shall include in its tender all charges and expenses likely to be incurred to bring the materials to the site and the Contractor shall seek prior permission under Mining Act in case of excavation and under Forest Act for De-forestation that is wherever the trees etc. are to be cut.

**H) Water , Electricity:**

**7.1 Water:** At one suitable location water Tap will be provided by Owner And the Contractor shall make arrangement for water Distribution for the construction and other purposes at its own cost and expenses.

**7.2 Electricity:** The Contractor shall make all arrangements for electricity for construction purposes, including general lighting and security lighting to the site. The Contractor shall, at its own cost, pay for all electrical distribution and wiring as required for use on the works and maintain and remove the same on completion. The power shall be made available to the Contractor at One suitable location by owner at free of cost

**I) Inspection and Approval:**

**8.1** All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Architect's or Structural Consultant/Architect's or its representative's instructions and shall be subjected, from time to time, to such tests as required as per the specifications and as the Structural Consultant/Architect/ Architect or its Representative may direct at the recognized and approved testing laboratory or at site.

**8.2** The machines & equipment, labour and materials, as are normally required for examining, measuring and testing of any works and the samples of materials of proper quality as may be required by Architect/Structural Consultant/Architect or their representatives shall be provided by the Contractor and is deemed to have included all costs associated with the same.

**8.3** The Contractor along with its Tender shall submit a list of laboratories/ test houses, where the Contractor proposes to test different materials and the extent of testing & testing facilities to be provided on-site. All the items of work requiring more than one process shall be subject to examination and approval of each stage thereof and the Contractor shall give due notice to the Structural Consultant/Architect when each stage is ready. In default of such notice, the Structural Consultant/Architect shall be entitled to appraise the quality and the extent thereof.



**8.4** All materials and workmanship shall be subject to inspection, examination and test by the Structural Consultant/Architect at any and all times during manufacture and/or construction. The Structural Consultant/Architect shall have the right to reject defective material or workmanship or require its correction.

**8.5** Rejected material or workmanship shall be satisfactorily replaced with proper material or workmanship without additional charge thereof and the Contractor shall promptly segregate and remove the rejected materials and/or the defective workmanship.

**J) Separate Contracts:**

**9.1** The Owner reserves the right to let other Contracts in connection with the Project. The Contractor shall afford other Contractors reasonable opportunity for their access to the Site, for the storage of their materials, and for the execution of their work, or if specified give assistance to such Contractors for such purposes as are specified.

**9.2** The Contractor shall properly connect and co-ordinate its work with that of the other Contractors that may be employed or engaged by the Owner and shall co-ordinate, communicate among the Structural Consultant/Architect, Architect, the Contractor, its Sub-Contractors and Vendors. No obstruction shall be created to any other agency(s) being directly employed by the Owner. Such obstructions shall be promptly removed by the Contractor upon instruction from the Structural Consultant/Architect otherwise such obstructions are counted as Hindrance on main Contractor.

**9.3** If any part of the Contractor's work depends for proper execution or results upon the work of any other Contractor, the Contractor shall inspect and promptly report in writing to the Structural Consultant/Architect any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure to so inspect and report shall constitute an acceptance of the other Contractor's work as fit and proper for receiving the work of the Contractor.

**K) Coordination of Work:**

**10.1** At the commencement of the work, and from time to time, the Contractor shall co-operate with other Contractors, Sub-Contractors, persons engaged on separate Contracts in connection with the Project, Vendors, the Structural Consultant/Architect, the Owner and the Architect for the purpose of the co-ordination and execution of various parts / phases of the Project.

**10.2** The Contractor shall determine and ascertain from the Vendors and persons engaged on separate Contracts, in connection with the Project, the extent of all chasings, cutting and forming of all openings, holes, details of all inserts, sleeves, etc. that are required to accommodate the various services.

**10.3** The Contractor shall determine and ascertain the routes of all services and positions of all floor and wall openings, outlets, traps; equipments and services and shall carry out the construction and making good of all "builder's work" in accordance with and as shown, described and/or measured in the drawings, specifications, and other Contract Documents.

**10.4** Also, the Contractor shall ensure that all required services, inserts, sleeves, embedment etc. are in place/position before the Contractor proceeds with its work as per the detailed working drawings issued from time to time, should the Contractor fail to comply with these requirements and the consequence of such failure necessitates the breaking, re-doing and making good of any work, then the cost of all such

breaking, re-doing and making good of any work shall be to the account of the Contractor and shall be borne by the Contractor. No breaking and cutting of completed work shall be done unless specifically authorized in writing by the Structural Consultant/Architect. No work shall be done over broken or patched work without first ascertaining that the broken surface is adequately prepared and reinforced to receive and hold further work, as determined by the Architect/ Consultant/ Structural Consultant/Architect.

## **L) Organization and Resource Planning:**

### **11.1 Contractor's Representative and Supervisory Staff**

a) The Contractor shall at its own cost provide and ensure continued effective supervision of the work with the help of the Contractor's Representative, assisted by team of qualified, experienced and competent engineers, supervisors and adequate staff, to the satisfaction of the Owner's Representative for the entire duration of the work.

b) The Contractor shall submit its proposed site organization chart for the approval of the Owner. The Contractor's Representative shall be on the Site at all times as the work and the Project progresses and shall be responsible for carrying out the work to the true meaning of the Drawings, Specification, Conditions of Contract, Schedule of Rates, the other Contract Documents and instructions and directions of the Owner's Representative.

c) The instructions and directions given in writing to the Contractor's Representative at the Site by the Owner's Representative shall be deemed to have been given to the Contractor officially. Attention is called to the importance of the Contractor requesting written instruction from the Owner's Representative before undertaking any work where the Owner's and/ or Architect's and/ or Consultant(s) direction or instructions are required. Any such Work done in advance of such instructions will be liable to be removed at the Contractor's expense and will not be paid for unless specifically approved in writing by the Owner Representative, as the case may be.

d) All key staff employed at the Site by the Contractor shall be considered essential to the performance of the Work and the Project Co-ordination Services, and all key staff shall be subject to the approval of the Structural Consultant/Architect. However such approval shall not relieve the Contractor of any of its Contractual obligation. No staff including the resident engineer and other technical supervisory staff shall be removed or transferred from the work without the prior written permission of the Structural Consultant/Architect.

e) The Structural Consultant/Architect shall, however, have the authority to order the removal from Site of any undesirable personnel. If key staff becomes unavailable for assignment to the work or the Project Co-ordination Services for reasons beyond the Contractor's control, the Contractor shall immediately notify the Structural Consultant/Architect to evaluate the impact on the Project. Prior to substitution or addition of any key staff, the Contractor shall obtain the Structural Consultant/Architect's written consent as to the acceptability of replacements or additions to such personnel.

f) The Contractor shall at all times be fully responsible for the acts, omissions, defaults and neglect of all of its representatives, agents, servant, workmen and suppliers and those of its Sub-Contractors.

## **M) Man-Power and Plant and Machinery:**

- a) The Contractor shall at its own costs provide and install all equipments, materials, plants, batching plants, concrete pumps, cranes, hoists, concrete mixers, ladders, and scaffolding, necessary for the execution of the work in conformity with the Contract Documents and to the satisfaction of the Structural Consultant/Architect.
- b) Also, all machines, tools, trucks, formwork material, man-power and everything else necessary for the proper and satisfactory execution and completion of the work in accordance with the Contract Documents shall be provided by the Contractor at its own cost.
- c) The Contractor shall submit a complete list of its manpower, plants and machineries for the approval of the Structural Consultant/Architect which approval however shall not relieve the Contractor of any of its responsibilities, obligations and liabilities under the Contract. The Contractor shall augment its manpower, plants and machineries without extra cost to the Owner whenever required or so directed by the Structural Consultant/Architect in order to conform to the approved construction programme for the achievement of milestones and for timely completion of the Project.
- d) Labour accommodation/hutments are not allowed at site. Owner will give the space for material storage/ site office, the Contractor has to make it lockable. The store/ office can be shift from place to place during the course of execution as per the site requirement on the instruction of Structural Consultant/Architect. The cost for the same shall be part of the quoted rates / contract amount. Such temporary structure shall be habitable, safe and hygienic with good accessibility, adequate light & ventilation.

## **N) Labour Regulation:**

### **12.1 Regulations:**

- a) The Contractor shall be wholly and solely responsible for full compliance with the Provisions under all labour laws and / or regulations such as Payment of Wages Act 1948, Employees Liability Act 1938, Workmen's Compensation Act 1923, Employees State Insurance Act 1948, Employees Provident Fund Act 1952, Building and other construction Workers (Regulation of Employment and Conditions of Service Act 1996, Buildings and other Construction Workers Welfare Cess Act 1996, Industrial Disputes Act 1970, Maternity Benefit Act 1961, the Contract Labour (Regulation and Abolition) Act 1970, Child Labor Act 1986 along with rules 1988 and the Factories Act 1948 or any modifications thereof or any other law relating thereto and rules there under introduced from time to time.
- b) The Contractor shall assume liability and shall indemnify the Owner & Structural Consultant/Architect from every expense, liability or payment by reason of the application of any labour law, act, rules or regulations existing or to be introduced at a future date during the term of the Contract.
- c) Insurance cover towards the above shall be affected by the Contractor as called for in Clause 18. In general, in respect of all labour directly or indirectly employed in the Work for the performance of Contractor's part of the Contract, the Contractor shall comply with all the rules framed by the Government authorities concerned from time to time for protection of the health and welfare of the workers.
- d) The Contractor shall at its own cost obtain a valid license for itself and the Owner/Principal Owner under the Contract Labour (R & A) Act 1970 and the Contract labour (Regulation an Abolition) Central Rules 1971 and under any other applicable rules before the commencement of the Work and continue to have a valid licenses until the completion of the Work.

## **12.2 Payment of Wages:**

a) The Contractor shall be liable and responsible to pay to labour employed by the Contractor either directly or through Sub-Contractors wages not less than fair wages as defined in the relevant Central/ Local Labor Acts, Rules, Regulation, Notifications etc. or as per the Provisions of the Contract Labour (Regulation and Abolition) Act 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable.

b) The Contractor shall also abide by the minimum wages and other regulations applicable to the labour engaged in the work, as laid down by the concerned Central/ Local authorities. In case the Contractor fails to pay fair wages as required by the authorities then the Owner/ Structural Consultant/Architect shall be entitled to do so and receive/recover or deduct such amounts including associated cost incurred by them in doing so from the Contractor.

No Claims in relation to increase in Contract Sum shall be entertained by the Owner/Owners' Representative due to the increase in minimum wages by any Pay Commissioner or by any other labour authorities.

c) The Contractor shall submit along with the running bill(s), a certificate duly certifying that payments to the labour have been made. The payments against each upto date running bill(s) shall be released only after receiving the said certificate. The Contractor shall submit such certificate in the form of indemnification as attached in the Annexure.

## **O) Protections, Cleaning of Works and Clearing of Site:**

### **13.1 Protection of works:**

a) The Contractor shall take full responsibility for the proper care and protection of the Work from commencement of work until completion and handing over of the Work to the Structural Consultant/Architect at no additional cost.

b) The Contractor shall protect and preserve the work in every way from any damage, fire or accident, including by providing temporary roofs, boxing or other construction as required by the Structural Consultant/Architect. This protection shall be provided for all property on the Site as well as adjacent to the site.

c) The Contractor shall adequately protect, to the satisfaction of the Structural Consultant/Architect, all the items of finishing works to prevent any chipping, cracking, breaking of edges or any damage of any kind whatsoever and to prevent such work from getting marked or stained or dirty. Should the Contractor fail to protect the work or any part thereof and should any damage be caused to the same, the Contractor shall be responsible for all replacement and rectification, as directed by the Structural Consultant/Architect, and all costs and expenses in connection with such replacement and rectification shall be to the account of the Contractor and shall be borne by Contractor.

c) All operations necessary for the execution of the work shall be carried out so as not to interfere with the convenience of the public, or with the traffic, or the access to, use and occupation of public or private roads and footpaths or of properties whether in the possession of the Owner or of any other person.

d) The Contractor shall indemnify the Owner & Structural Consultant/Architect in respect of all claims, proceedings, damages, costs, charges, and expenses whatsoever arising out of or in relation to any such matters.

### **13.2 Cleaning of Works and Clearing of Site:**

a) The Contractor shall maintain the Site and all work thereon in neat, clean, tidy and hygienic conditions at all times. The Contractor shall remove all rubbish and debris from the Site on daily basis and / also as directed by the Structural Consultant/Architect. Suitable steel skips shall be provided at strategic locations around the Site to receive waste and packaging materials.

b) Just prior to the Virtual Completion of the work, or whenever so directed by the Structural Consultant/Architect, the Contractor shall carry out all the work necessary to ensure that the site is clear and the Work are clean in every respect, the surplus materials, debris, sheds and all other temporary structures are removed from the Site, all plant and machinery of the Contractor are removed from site, the areas under floors are cleared of rubbish, the gutters and drains are cleared, the doors and sashes are eased, the locks and fastenings are oiled, any work specified under this Contract, the keys are clearly labeled and handed to the Structural Consultant/Architect, so that at the time of Virtual Completion the whole site and the Work are left fit for immediate occupation and use, to the approval and satisfaction of the Structural Consultant/Architect and Architect.

c) Should the Contractor fail to comply with the cleaning requirements, whether progressively or before completion, or fail to clear the Site as directed and required, then the Structural Consultant/Architect, after giving due notice in writing to the Contractor, shall have the right to employ other persons or agencies to carry out the cleaning and/or clearing work and all costs incurred on such work shall be recovered from the Contractor and shall be deducted by the Owner/ Structural Consultant/Architect from any money that may be payable or that may become payable to the Contractor.

### **P) Method of Measurement:**

**14.1** All Works shall be measured for making payments to the Contractor. To evaluate Work under this Contract and instructed as per work order/ change orders issued by the Contract issuing authority, the standard method of measurement in accordance with the Standards laid down by Bureau of Indian Standards (IS:1200) including amendments if any shall be followed.

**14.2** However, if definite methods of measurements are stipulated in the Schedule of Rates and Specifications, then the same shall supersede BIS methods and shall be followed. In the event of any dispute with regards to the method of measurement of any work, the decision of the Architect/ Consultant shall be final and binding on both Contractor & Owner and no extra claims shall be entertained or allowed at any stage in this regard.

### **Q) Payments:**

#### **15.1 Billing**

The Contractor shall prepare measured bills as directed by the Owner (detailed measurement, abstract sheet, tax invoice other supporting documents as per the approved format) once per month and submit the same to the Structural Consultant/Architect latest by 5<sup>th</sup> day of every month in Duplicate for checking and issue of interim certificate.

The procedure for billing is as follows:

- (i) Standard measurement book shall be prepared well in advance from the approved GFC Drawings and duly approved by the quantity surveyor appointed by the Owner.
- (ii) Measurement books shall be supported with working drawings refers to the progress payment request (RA Bills).
- (iii) All measurement shall be cumulatively compiled and attached with the bills.

(iv) Contractor shall submit tax invoices clearly mentioning the items, quantities, rates and amount to substantiate the secured advance request. Contractor need to submit in detail secured advance recovery as per the Owner approved format.

(v) Certification by the Structural Consultant/Architect/ Quantity surveyor supporting an interim payment shall not be conclusive that any work or materials to which it relates is/ are in accordance with the Contract. The Owner shall have the right to revoke such payments made, recover such incorrect/unacceptable quantities at any point of time during the currency of the Project.

From every Running Account Bill 5% Retention amount will be held on cumulative Basis.

(vi) Final Bill will be released with 2.5% of Retention after proper completion & due certification from representative authority of owner. And remaining 2.5% Retention shall be released after Defect Liability period and rectification (if any) aroused within defect liability period

## **R) Variations, Change Orders and Extra Items:**

**16.1** The term "Variation" as used in these conditions means the alteration or modification of the design, quality or quantity of work as shown upon the Contract drawings and desired by or referred to in the Bill of Quantities and includes the addition, omission or substitution of any work the alteration of the kind of standard of any of the materials or goods to be used in the work and the removal from the site of any works, material, or goods executed or brought thereon by the Contractor for the purpose of the work other than the work, materials or goods which are not in accordance with this Contract.

**16.2** The Owner reserve the right to alter the Scope of Work and consequently the Contract Price shall be suitably adjusted for such changes by reference to the rates in the Schedule of Rate. All change orders shall be issued by the Contract Issuing Authority after obtaining the prior written consent of the Owner.

## **S) Extra Items :**

i) If the rates for the additional, altered or substituted work are not specifically provided in the Schedule of Rates then such rates shall be derived by interpretation/interpolation from the rates that the specified for similar class of work in the Contract. The Owner interpretation regarding the rates shall be final and binding on the Contractor.

ii) If the rates for the additional, altered or substituted work cannot be determined in the manner specified above, then the rates for such work shall be determined on the basis of actual/theoretical consumption of materials, and actual/ theoretical use of labour plus 17% towards overhead & profit plus all applicable taxes.

## **T) Time for Completion:**

### **Time- Essence of the Contract:**

The time allowed for carrying out the work as entered in the tender shall be strictly observed by the Contractor and shall be deemed to be of the essence of the Contract and shall be reckoned from the date of award of the LOI.

## **U) Defects Liability Period and Final Completion Certificate:**

**17.1** The Defects Liability Period shall commence from the date of issue of Virtual Completion Certificate as issued by the Owner. The duration of the Defects Liability shall be Twelve (12) months from the date of issue of virtual completion certificate.

**17.2** The Contractor's liability shall be to replace the defective parts, rectify and/or reconstruct the defective work that may develop of its own construction or those of its Sub-Contractor's approved by

the Structural Consultant/Architect/ Owner or arising from faulty material or workmanship or for any other reason.

**17.3 If it is necessary for the Contractor to rectify/** reconstruct any defective portions of the work under the Contract, the Provision of this condition shall apply to the portions of work so replaced or renewed until the expiry of three months from the date of such replacement or renewal or until the end of the above mentioned period of twelve -months, whichever may be later. If any defects are not remedied within a reasonable time, the Owner may proceed to do the work at the Contractor's risk and expenses, but, without prejudice to any other rights, which the Owner may have against the Contractor in respect of such defects.

**V) Settlement of Disputes / Arbitration:**

**18.1** All dispute and differences of any kind whatever arising out of or in connection with the Contract or the carrying out of the works (whether during the progress of the works or after its completion and whether before or after the determination, abandonment or breach of the Contract) shall be referred to and settled by the Architect who shall state its decision in writing. Such decision may be in the form of a Final Certificate or otherwise. The decision of the Architect with respect of any of the excepted matters shall be final.

**18.2** But if either the Owner or the Contractor is dissatisfied with the decision of the Architect on any matter then and in any such case the matter shall be referred to Arbitration of Sole Arbitrator.

**18.3** The Owner shall suggest a panel of three Arbitrators to the Contractor to select any one out of the Panel of Three, to the Contractor to select any one among them to act as the Sole Arbitrator. In the event of failure of the Contractor to select the Sole Arbitrator within 15 days from the receipt of the communication suggesting the panel of Arbitrators, the right of selection of Sole Arbitrator by the Contractor shall stand forfeited and the Owner shall have discretion to proceed with the appointment of the Sole Arbitrator. The decision of the Owner on the appointment of Sole Arbitrator shall be final and binding on the parties.

**18.4** The award of the Sole Arbitrator shall be final and binding on the parties and unless directed/awarded otherwise by the Sole Arbitrator, the cost of arbitration proceedings shall be shared equally by the Parties subject to the award passed by the Sole Arbitrator. The arbitration proceeding shall be in English language and the venue shall be at Pune, Maharashtra, India. Subject to the above, the Provisions of (Indian) Arbitration & Conciliation Act, 1996 and the rules framed there-under shall be applicable.

**18.5** Provided always that the Owner shall not withhold the payment nor the Contractor shall in any way delay the carrying out of the works by reason of any such matters, question or dispute being referred to Arbitration until the decision of the Arbitrator or the Umpire as the case may given, abide by the decision of the Architect and no award of the Arbitrator or the Arbitrators or the Umpire as the case may be shall relieve the Contractor of its obligations to adhere strictly to the Architect's instructions and with regard to the actual carrying out of the works. The Owner and the Contractor hereby also agree that Arbitration under this clause shall be a condition precedent to any right of action under the Contract.

**18.6** The Arbitration proceeding shall be held in accordance with The Arbitration and Conciliation Act 1996 (As amended). If any of the parties still feels aggrieved, then the courts at Pune alone shall have the exclusive jurisdiction for such matters.

**W) Termination of Contract by Owner:**

**19.1 Notice to Correct:**

If the Contractor fails to carry out any obligation under the Contract, the Owner may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

**19.2 Termination by Owner:**

**Termination for convenience:**

Owner may by prior written notice of 30 (Thirty) days sent to Contractor, can terminate the Contract, in whole or part, at any time without assigning any reason (whatsoever) for its convenience. However, the payment shall be released to the extent to which performance of work executed as determined by Owner till the date upon which such termination becomes effective.